

IN THE COURT OF APPEALS OF IOWA

No. 6-206 / 06-0253
Filed April 26, 2006

**IN THE INTEREST OF J.W. and D.W.,
Minor Children,**

C.W., Father,
Appellant

M.L., Mother,
Appellant.

Appeal from the Iowa District Court for Polk County, Joe E. Smith, District Associate Judge.

Parents appeal the termination of their parental rights to their minor children. **AFFIRMED.**

Cathleen Siebrecht of Siebrecht & Siebrecht Law Firm, Des Moines, for appellant father.

Bryan J. Tingle of Kragnes, Tingle & Koenig, P.C., Des Moines, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant Attorney General, John Sarcone, County Attorney, and William E. Sales III, Assistant County Attorney, for appellee State.

Kayla Stratton, Juvenile Public Defender, Des Moines, guardian ad litem for minor children.

Considered en banc.

PER CURIAM***I. Background Facts & Proceedings***

Corey and Mindy are the parents of Jamal, born in August 2003, and Distanie, born in April 2005. Mindy has a history of mental health problems. Corey has a history of substance abuse and criminal activity. Jamal was removed from Mindy's care in October 2003 after she left him alone in her apartment. Mindy had also threatened to harm the child. Corey was working out of state at the time. Jamal was placed in foster care.

Jamal was adjudicated to be a child in need of assistance (CINA) pursuant to Iowa Code sections 232.2(6)(n) (2003) (parent's mental condition results in child not receiving adequate care). Corey returned to Iowa in December 2003. He had extremely limited participation with the Iowa Department of Human Services.

Mindy participated in services, and in May 2004, Jamal was returned to her care. In October 2004, Corey was charged with domestic abuse assault of his new girlfriend, and he was sent to prison. Jamal was removed from Mindy's care in November 2004, after she hit him in the mouth, requiring stitches. Mindy continued to have problems with anger management. She was verbally aggressive, hostile, cursing, and self-focused. Mindy threatened physical harm to social workers involved in the case.

Distanie was born in April 2005. She was immediately removed from Mindy's care and placed in the same foster home as Jamal. Distanie was adjudicated to be CINA under sections 232.2(6)(b) (2005) (parent is imminently

likely to neglect child), (c)(2) (child is likely to suffer harm due to parent's failure to supervise), and (n). After Distanie was removed, Mindy moved to South Dakota. Mindy voluntarily participated in some services there. Corey was released from prison in October 2005. Corey remained inconsistent in his participation in services.

In December 2005 the State filed a petition seeking to terminate the parents' rights. The juvenile court terminated Corey's rights under sections 232.116(1)(b) (abandonment), (e) (child CINA, removed for six months, parent has not maintained significant and meaningful contact), (h) (child is three or younger, CINA, removed for at least six months, and cannot be safely returned home), and (i) (child meets definition of CINA, is in imminent danger, services would not correct conditions). Mindy's parental rights were terminated under sections 232.116(1)(d) (child CINA for neglect, circumstances continue despite the receipt of services), (g) (child CINA, parent's rights to another child were terminated, parent does not respond to services), (h), and (i).

The court found it was clear the parents could not assume custody of the children at the time of the termination hearing in January 2006. The court determined, "Given the record of [their] cooperation with services, it appears [they] would never be able to assume that custody." Corey and Mindy each appeal the termination of their parental rights.

II. Standard of Review

The scope of review in termination cases is de novo. *In re R.E.K.F.*, 698 N.W.2d 147, 149 (Iowa 2005). The grounds for termination must be proven by

clear and convincing evidence. *In re T.B.*, 604 N.W.2d 660, 661 (Iowa 2000). Our primary concern is the best interests of the children. *In re J.L.W.*, 570 N.W.2d 778, 780 (Iowa Ct. App. 1997).

III. Corey

A. Corey contends that the State failed to prove its allegations by clear and convincing evidence. We determine there is sufficient evidence in the record to support the termination of Corey's parental rights. We note that throughout the juvenile court proceedings Corey exhibited very little interest in his children. Although Corey was in prison for one year during the proceedings, even when he was out of prison he did not participate in services or take steps to put his life in order so the children could be placed with him. Corey did not attend most of the juvenile court hearings, including the termination hearing. Because Corey did not participate in services he did not have visitation with the children, and he had not seen them for over a year.

We conclude Corey's parental rights were properly terminated on the under section 232.116(1)(e), based on failure to maintain significant and meaningful contact. Because we have affirmed on this ground, we do not need to address the other grounds cited by the juvenile court. *See In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999).

IV. Mindy

A. Mindy asserts that there is insufficient evidence in the record to justify the termination of her parental rights. She states that the two main problems were her failure to remain on medication and adequate housing. Mindy

claims that she has addressed these problems, and the children could be returned to her care. Throughout the case, the main problem was actually Mindy's problems with anger management, which led her to be physically abusive to Jamal. Mindy was continually verbally abusive and threatening to others. Mindy did not think she had a problem with anger management, and she was resistant to change. We determine Mindy's parental rights were properly terminated. Clear and convincing evidence supports the termination of Mindy's parental rights under section 232.116(1)d), because the circumstances which led to the adjudication continued despite the receipt of services. Again, because we have terminated on this ground, we need not address the other grounds cited by the juvenile court. See *S.R.*, 600 N.W.2d at 64.

B. Mindy claims termination of her parental rights is not in the children's best interests. In considering the children's best interests, the juvenile court stated:

In this case neither parent has seen fit to profit from the many, many services offered them. They continue to procrastinate or outright defy those services. The best interest of these children will be served by permanency. In this case permanency is best achieved by termination of the parental rights of Mindy and Corey.

We agree with the juvenile court's conclusions. Because Mindy has not fully addressed her anger management problems, we find termination of her parental rights is in the children's best interests.

AFFIRMED.